



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/161562

PRELIMINARY RECITALS

Pursuant to a petition filed October 27, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on December 17, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly reduced Petitioner's monthly FoodShare (FS) benefits effective November 1, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Simone Johnson

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. Petitioner is a household size of 1.

2. Effective November 1, 2014 Petitioner's monthly FoodShare (FS) benefits decreased from \$170 to \$36. This reduction was not due to changes in Petitioner's household, but rather the passage of the 2014 farm bill.
3. Petitioner completed a renewal for his FS benefits in October 2014. During his renewal Petitioner reported that his monthly income was \$804.78, his monthly rent was \$450.00, and that his utilities were included in his rent.
4. Petitioner's monthly income consists of \$804.78 from SSI. Petitioner's monthly rent is \$450.00.
5. All of Petitioner's utilities are included in his rent. Petitioner does not receive WHEAP assistance.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires the county to start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 1 is \$152, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

Following these rules the agency correctly calculated Petitioner's monthly FS benefits effective November 1, 2014. *DHS Operations Memo 14-16 Amended*. In this case the issue lies in the reduction. Petitioner's income, rent, household size, and expenses did not change, but at his renewal his monthly FS benefits decreased by over \$100. *Id.* The reason for this decrease is the 2014 farm bill. *Id.* Prior to the 2014 Farm Bill the Wisconsin Department of Administration (DOA) issued an annual energy assistance payment of \$1 to all FS households who were not already receiving energy assistance. *Id.* This allowed Wisconsin to grant all FS households the Heating Standard Utility Allowance (HSUA) of \$446. *Id.* The actual utility usage did not matter. *Id.*

The 2014 Farm Bill changed Wisconsin's practice of allowing all FS households to take the maximum utility allowance. *Id.* The 2014 Farm Bill requires a household to have received a WHEAP or energy assistance payment of greater than \$20 to receive the HSUA of \$450. 7 U.S.C. 2014(e)(6)(C)(ii)(I). Therefore, "households that have not received WHEAP will receive the appropriate utility standard based on the utility obligation(s) incurred by the household." *DHS Operations Memo 14-16 Amended*. In this case Petitioner did not receive WHEAP and did not have any utility obligations, therefore he does not qualify for a utility deduction. This caused a reduction in Petitioner's monthly FS benefits effective November 1, 2014 after Petitioner completed his renewal in October.

CONCLUSIONS OF LAW

The agency correctly calculated Petitioner's FS benefits effective November 1, 2014.

THEREFORE, it is

ORDERED

That the Petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 22nd day of December, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 22, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability